

P26994.A07



In re patent application of

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Serial No.: 09/846,311

Filed: May 1, 2001

Docket No. P26994

Confirmation No. 4707

Group Art Unit: No. 2142

Examiner: Thong H. Vu

For: **METHOD FOR CONVENIENTLY ENABLING A WEB SERVER TO PROVIDE COMMERCIAL PROMOTIONS USING COMPILED CODE**

### **REQUEST FOR PRE-APPEAL BRIEF REVIEW**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Window, Mail Stop AF  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This request is being filed concurrently with a Notice of Appeal and is responsive to the Final Official Action of December 5, 2005.

Reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection is respectfully requested in view of the following remarks.

***A prima facie case of unpatentability has not been set forth and the Rejection Under 35 U.S.C. § 103(a) Is Improper***

#### **Examiner's Assertion**

In rejecting independent claims 1, 2, 7, 11, 12 and 17, the Examiner acknowledges that EGGLESTON fails to disclose or suggest checking a database of promotions for presence of a promotion that includes the qualifying value, but asserts that LAKRITZ discloses this feature in the Abstract and at col. 3 line 65 to col. 4, line 3 (see page 6 of the Final Office Action).

#### **Applicant's Response**

This assertion is not correct. The Abstract is clearly silent with regard to this feature and col. 3, line 65 to col. 4, line 3 of LAKRITZ merely disclose the following:

A simple, fast, easy to use system for generating, identifying, and recognizing characters in ideographic alphabets has been heretofore unknown. Yet such system is needed to provide access to such alphabets for those at all skill levels

with the language, written and/or spoken, underlying such ideographic alphabets.

Applicant fails to see the relevancy of this cited language and submits that this language clearly does not disclose or suggest checking a database of promotions for presence of a promotion that includes the qualifying value. Nor has the Examiner identified any equivalency between such disclosure and the recited feature.

**Examiner's Assertion**

In response to the above-noted argument, the Examiner asserts (on page 2 of the Advisory Action) that this feature is also taught at col. 15, lines 50-55 of EGGLESTON.

**Applicant's Response**

Applicant disagrees. The noted language merely states the following:

Thus, the system automatically permits sponsors to enter the award site 198 to search the site via topic or keyword to obtain particular prizes, to select the prizes and to update the sponsor database to reflect the association of a particular prize with a particular incentive program.

Applicant fails to see the relevancy of this cited language and submits that this language clearly does not disclose or suggest checking a database of promotions for presence of a promotion that includes the qualifying value. Nor has the Examiner identified any equivalency between such disclosure and the recited feature.

**Examiner's Assertion**

In rejecting independent claim 2, the Examiner inexplicably asserts that EGGLESTON discloses checking a database of promotions for presence of a promotion that includes the qualifying value at col. 12 line 12- and col. 41, lines 5-38.

**Applicant's Response**

Applicant admits to being confused. The same feature in claim 1 was acknowledged to be missing in EGGLESTON, but in claim 2 is allegedly found in EGGLESTON. Regardless, Applicant has carefully reviewed the noted language of EGGLESTON, and failed to discover the recited language. Accordingly, Applicant requests that the Examiner specifically identify which specific language in EGGLESTON even remote discloses or suggests this feature.

**Examiner's Assertion**

In rejecting independent claim 2, the Examiner acknowledges that neither EGGLESTON nor LAKRITZ discloses or suggests a module of selectively executable compiled web server code residing on a server's body of compiled code made explicitly by pointers that are included in terms of the promotion, but asserts that this feature is obvious in view of language on col. 6, lines 30-46 of EGGLESTON (see page 4 of the Final Office Action).

**Applicant's Response**

Applicant disagrees. Col. 6, lines 39-46 of EGGLESTON merely states the following:

In particular, without limitation, systems and methods of the present invention comprise a host computer connected to a network, a client computer of a consumer connected to the network, a sponsor computer of a sponsor connected to the network, an incentive participation application program for participation by the consumer in an incentive program, wherein the participation may be in incentive programs of a plurality of sponsors, a server of the host computer, a web site, located on the server of the host computer, wherein the consumer may participate in an incentive program via the web site, a database of the host computer of awards associated with the incentive participation application programs, an award association application program for associating an award with an incentive program and a fulfillment automation application program for associating a fulfillment method with an award.

There is clearly no disclosure or suggestion in this passage with regard to pointers that are included in terms of the promotion, much less, a module of selectively executable compiled web server code residing on a server's body of compiled code made explicitly by pointers that are included in terms of the promotion. Nor has the Examiner identified any such language.

**Examiner's Assertion**

In response, the Examiner asserts (on page 3 of the Advisory Action) that the recited pointer is taught at col. 32, lines 53-64 of EGGLESTON.

**Applicant's Response**

Applicant disagrees. The noted language merely states the following:

The incentive program builder could also be implemented as standalone software, with a front end menu similar to the HTML pages described above for

selecting an incentive program or combination of incentive programs, so that the program, which may be a C++ program or similar program, builds code based on the predetermined parameters of the incentive program. Code could then be downloaded into files containing complete incentive programs for installation on a user's site, or stored on the sponsor database of the host system, where upon action by the consumer, a CGI call may be made to the sponsor database to verify parameters and constraints to determine whether a win has occurred.

Applicant fails to see the relevancy of this cited language and submits that this language clearly does not disclose or suggest a module of selectively executable compiled web server code residing on a server's body of compiled code made explicitly by pointers that are included in terms of the promotion.

**Examiner's Assertion**

In rejecting claims 7, 11, 12 and 17, the Examiner cites col. 26, lines 30-61, col. 31, lines 25 to col. 32, line 20 as disclosing when the promotion that includes the qualifying value is active, determining a reward value of the promotion that includes the qualifying value and executing a module of selectively executable compiled code associated with the reward value and/or when a promotion that includes the qualifying value is present in the database, executing a module of selectively executable compiled web server code that provides the promotion, and/or when a promotion that includes the qualifying value is present in the database, determining a reward value of the promotion that includes the qualifying value and executing a module of selectively executable compiled code associated with the reward value.

**Applicant's Response**

Applicant disagrees. The noted language on col. 26, lines 30-61 merely states the following:

The consumer site may include graphical icons, buttons, and highlighted text strings that permit the user to select current incentive programs of the host, which are designated as host incentive programs by any convenient means, such as association with an asterisk or formatting as "<STRONG>" elements within HTML. The icons may be HTML hypertext links or may be programmed through the use of embedded programs that can run inside World Wide Web pages, such as Java applets. Selection of the icon initiates a link that causes the server to display a new HTML page for the relevant incentive program. The relevant incentive program may be programmed in any language suitable for building incentive programs, such as Java, C++, or the like. A CGI Script may be used as a gateway to connect to the application program for the incentive

program. Host incentive programs may be of a wide variety of types, but have common characteristics of defining "win-eligible" activities for the user and being capable of transmitting the message that a consumer has won a particular incentive program. Win-eligible activities are coded in the application program of the incentive program, so that predetermined user input results in a win or loss for the consumer. Various implementations may exist to reflect the underlying algorithm to determine a win or loss. For example, a scratch-and-win game may be coded so that a prize is displayed if the user clicks on the correct icon, or a message to try again is displayed if the user selects another icon. Any host incentive program is required to include, as part of the program, an algorithm that instructs the HTTP server to send a message to the consumer database 200 that updates the consumer database 200 to reflect that the consumer has won that incentive program.

Furthermore, the extensive language on col. 31, line 25 to col. 32, line 20 merely discusses the parameters which may be selected by a sponsor.

**Examiner's Assertion**

Finally, in rejecting independent claims 1-4 and 6-23, the Examiner apparently believes that it is proper to combine the teachings of EGGLESTON and LAKRITZ.

**Applicant's Response**

Applicant disagrees. EGGLESTON relates to an incentive programs which can associate prizes with such programs (see Abstract) and LAKRITZ relates to a system for looking up characters in an ideographic alphabet (see Abstract). There is simply no rational basis for combining the teachings of these documents and even if there were, no proper combination of these documents discloses or suggests the combination of features recited in at least independent claims 1, 2, 7, 11, 12 and 17.

**CONCLUSION**

Reconsideration of the Final Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Respectfully submitted,  
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